

1860-002 Chancery Causes Carlo B. Brittain vs. Allen H. Myleham &
Lee Co.

CA - Debt
T - Property

To the Worshipfull, the County Court of
See County, Virginia, in Chancery sitting.

The bill of complaint of Carlo B. Brittain
respectfully represents, that at the ~~October~~ ^{rendered} Term of
Your Worshipfull Court, judgment was ~~rendered~~
in favor of Your Orator ^{on a forth-coming bond} against Allen H. Mileham
and Russell J. Mileham ^{and John G. Gellahorne} for the sum of \$3450

~~with legal interest thereon from the 1st day of~~
~~March 1858 till paid and the Costs amounting to~~
~~\$1000 to be discharged by the payment of \$1726.77 with~~
~~legal interest thereon from the 14th day of August 1858 till paid~~
~~and the Costs of March 1858, and \$172.77 for~~

~~the said debt.~~ A copy of which judgment is
herewith filed as part of this bill, marked (C4).

On said judgment, an execution issued, on
which execution the sum of \$ was
made by the Sheriff, from sales of Defendants
goods and chattels. The Sheriff then, having ex-
hausted the personal property of the said Defend-
ants, returned the said execution, "no other
property found". And Your Orator knows of no
other ^{personal} property, out of which to make the said
debt, principle, interest and costs. Your Orator
averts that there is still due and unpaid on
the said judgment, several hundred Dollars.

The said Debt, Allen H. Mileham owns and is
possessed of a tract of land lying, and being in See
County, Virginia, where he now lives, ~~consisting~~
containing about acres, Your Ora-
tor avers that the rents and profits of the said
land would not pay the said debt, principle, in-
terest and costs, in five years. Under these cir-
cumstances, Your Orator ~~thinks~~ thinks Your Wor-
shipfull body should enter a decree appoint-
ing a Commissioner whose duty it shall be
to sell the said land, or so much thereof as

may be necessary, and out of the proceeds, to pay
~~the said~~ and satisfy the said judgment, principle
interest and costs, and also the costs of this suit,

Your Orator's prayer is therefore that the said
Allen H. Mileham and Russell J. Mileham be made
parties defendant to this bill, and be required to
answer the several allegations thereof fully and truly
on oath, that a decree be rendered by your Worship
subjecting the before mentioned land to sale to pay
the said debt, principle, interest and costs and also the
costs of this suit; and that a Commissioner be ap-
pointed, whose duty it shall be to make the said
sale ^{in the manner and to the extent of this bill} for the said purpose before named.

And your Orator will ever pray V.C.

May the Commonwealth this writ of Spadique V.C.
Sharp for Compt.

Carlo B. Brittain
 vs } Bill in Chancery
 Allen H. Mileham &
 Russell J. Mileham

1859 Feb Bill filed
 1860 Jan Decree nisi
 Feb Continued
 March Continued
 April Continued
 May Answer of Deft filed
 June Continued
 July Continued
 Aug Sept. Continued
 October Continued
 Nov. Dec. 1860 by Dep't

0 2, 98
 " 3, 00
 3 1, 00
 2 1, 00

9, 9 Cash Paid

Recd 11th October 1860 of A H Mileham, three
 dollars & ninety eight cents, the cost on the
 within Chancery suit, which is unpaid &
 I do hereby certify for
 A H Mileham,
 and the sum of \$9.98 is well paid by Mileham
 A H Morgan

To the Worshipful County Court of the County of Virginia
Allen N. Milham a defendant to a bill filed in
this Court against him and Russell J. Milham
by Charles Brittain. Comes and first for plea saith
that Complainant cannot from his own shewing
maintain his Suit against said defendants alone
- that John Gallohome should have been made
a Co-defendant. And the said Allen N. Milham
after reserving the benefit of all proper exceptions
to said bill for answer thereto doth say.

That at ~~xx~~ ~~xxx~~ the Complainant obtained a Judgment
against defts & said Gallohome at the October
term 1858 of said Court for the sum of \$3453.54
but to be discharged by the payment of \$1724.72 with
interest from August 14th 1858 till paid & of the costs,
but no judgment appears to have been obtained against
Russell J. Milham. Upon this judgment execution
~~was~~ issued and several payments made thereon
by your Respondent. The precise amount of these
payments Respondent does not now distinctly rem-
-ember but he is induced to believe that there
does not remain unpaid of said Judgment
more than \$

Respondent admits that he owns the land
in the bill mentioned but he denies as alleged in
the bill that the rents and profits of said land
would be insufficient to satisfy said judgment
with costs within five years. - Upon the contrary
he alleges that the rents & profits of said land
will be sufficient to satisfy said judgment with
costs within less than five years & consequently
cannot be sold under the Statute and having now
answered so much of said bill as he is

advised it is material for him to answer pray s. that
Complainants bill be dismissed with costs &c

Stagan for deft
Allen H. Micham

Virginia In County to wit

Allen H. Micham personally appeared before
the undersigned commissioner in chancery in
the circuit court of In county and made oath
that the facts and allegations contained in the foregoing
answer are true to the best of his knowledge and
belief given under my hand this 8th day of
May 1860

Attest, Morgan Comm'r

Allen H. Micham

Ans
app

Leola Brittain

* This Deft alleges that the Deft's right claim on
the Com was for two months the Deft's right should
have been for \$117.58 and not \$117.22. This arose
from a mistake in the calculation of the original ex-
hibition, & inasmuch as this mistake is corrected

Virginia

At a court begun and held for Lee county at the
court House thereof on Monday the 18th day of October 1858.

Carlo R. Pottain

Pet

vs.

Allen H. Melham and John Gallahorne Defendants

A Motion on a fourth coming Bond.

This day came the Plaintiff by his attorney, and it appearing to the court by the oath of a witness, that the defendants have had legal notice of this motion, and being called had come not. Therefore it is considered by the court that the Plaintiff recover against the defendants, \$3455.50, the sum of said bond, and his costs by him in this behalf expended and the said defendants in mercy. But which is to be discharged by the payment of \$1726.72. with legal interest thereon from the 14th day of August 1858. till paid and the costs

Test

H. Morgan Cl

Carlo B Brittan

vs Zephyr J. J. J.

William Collohome

(A)

See for copy 20.

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

Allen H. Milham and Russell J. Milham

to appear before the Justices of our County Court for Lee County, at the Court House, *on the 1st Monday*
in December 1859 to answer
a bill in Chancery exhibited in our said Court against *them* by *Carlo B. Brittain*

And have then there this writ. WITNESS, HENRY J. MORGAN, Clerk of our said Court, at the Court House, this
2nd day of *December* 1859, in the *84th* year of the Commonwealth.

H. J. Morgan, Clk.

We acknowledge the Regd. Service of the
within notice this Decr 17th 1859 =

A. H. Milham

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18
15
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75
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20
20
2,98

(5)

Carlo. B. Britain

vs 3/4 in Chy

A. H. Milham et al

Decr. Rules. 1859

Executed
Thos. J. Brown